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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 25th MEETING

Held at the Palais des Nations, Geneva
on Thursday, 14 February 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

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The meeting was called to order at 10.30 a.m.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(agenda item 11) (continued) (E/CN.4/1991/21 and Add.1, 22-25 and 72; E/CN.4/1991/NGO/1 and 8; A/45/564 and Add.1, 590 and 807; A/C.5/45/66; A/RES/45/155 and 180; E/1990/50)

1. Miss FUNDAFUNDA (Zambia) welcomed the decision taken by the General Assembly in resolution 45/155, adopted in December 1990, to convene a World Conference on Human Rights in 1993. The decision stemmed from the developments in international relations, resulting partly from the end of the cold war, and it also reflected the remarkable advance of the cause of the promotion and protection of human rights over the past four decades. Nowadays, no Government could dare to dissent from the doctrine of human rights, despite differences in cultural tradition and ideological orientation and moreover all the States Members of the United Nations had pledged themselves to protect and encourage human rights and fundamental freedoms when they had signed the Charter of the United Nations.

2. Her delegation stressed the significance of international cooperation in ensuring the success of the World Conference, which it hoped, would give rise to a constructive exchange of views and would not serve as the occasion for championing the relative legitimacy and priority of one set of human rights over others, because, as the General Assembly had repeatedly confirmed, all human rights formed an indivisible whole. The Conference should then devote equal attention to all human rights as established in the international human rights instruments; that, moreover, would be consistent with the objectives contained in paragraph 1 of General Assembly resolution 45/155.

3. The first of the objectives set by the Assembly, to assess progress achieved and to identify obstacles with a view to eliminating them, would, inter alia, make it possible to ascertain the progress achieved in standard-setting as well as in the sphere of humanitarian assistance, such as that rendered by UNICEF and UNHCR. That aspect of human rights protection was one which was often neglected. It could therefore be said that the United Nations had discharged that task creditably despite its financial constraints. Further, it had to be recognized that contemporary international society had not yet reached a stage at which supranational enforcement machinery had priority over national machinery and that the implementation of human rights principles depended largely upon the voluntary consent of States. The obstacles to progress included ideological differences bred from

the cold war between East and West which often resulted in inaction on various human rights issues, and the double standards and selective approach adopted by some member States towards serious and persistent violations of human rights in certain countries, notably South Africa and the occupied Arab territories. The continued existence of the apartheid system in South Africa remained an impediment to the realization of the right to self-determination for the people of that country. It also constituted a serious obstacle to the enjoyment of peace and security and the right to development in southern Africa. For those reasons, her delegation earnestly hoped that the World Conference would give priority attention to those problems.

4. In addition, the Conference would have to examine the relation between development and the enjoyment of all human rights in a comprehensive framework, for the right to development was as much an economic right as a political one. Its realization would provide a sound basis for sustainable development and, in the international context, provide an effective means of liberation from all forms of external domination and exploitation. In connection with ways and means of improving the implementation of existing human rights standards and instruments, her delegation felt that States were under an obligation to implement the relevant standards and instruments to which they were parties, and it wished to underscore the importance of the advisory services provided by the Centre for Human Rights. For that reason her delegation recognized the need to provide the Centre with the financial and other resources it needed in order to discharge its task effectively.

5. The success of the World Conference on Human Rights would be determined in no small measure by the quality and scope of preparations to be made at the international, regional and national levels, with the active participation of the specialized agencies, international and regional organizations, appropriate United Nations bodies and non-governmental organizations. In that regard, the significance of regional preparatory meetings could not be over-emphasized because regional human rights systems might well offer the best prospects for the promotion of human rights.

6. Her delegation sincerely hoped that the World Conference on Human Rights would generate the necessary impetus towards the full realization of human rights enshrined in the Universal Declaration of Human Rights and other relevant international instruments, and it was willing to participate actively both in the Conference itself as well as in the preparatory process.

7. Mr. PAGAC (Czech and Slovak Federal Republic) said that the ideas and suggestions put forward in the course of the discussions on the issue dealt with under item 11 - perhaps one of the most complex and difficult on the agenda - were worthy of further study. His delegation believed that resolution 45/155, by which the General Assembly had decided to convene a World Conference on Human Rights in 1993, created an appropriate framework for strengthening mutual understanding and cooperation in that field. It would explain its position in detail on other occasions during the preparatory process.

8. International relations had changed considerably over recent years, and the return to multilateralism should allow small- and medium-sized countries to participate actively in working out concepts and adopting decisions at the

international level. The United Nations Centre for Human Rights played a key role in the promotion of human rights worldwide and his country had established close and fruitful contacts with its Secretariat. His delegation particularly appreciated the willingness of the Centre for Human Rights to assist Czechoslovakia in establishing its own national centre for documentation and training in the field of human rights. It considered that the activities of the Centre were of the utmost importance and concurred with those who claimed that the resources earmarked for human rights within the United Nations budget were inappropriately distributed and were not commensurate with the Centre's needs. His delegation endorsed the activities carried out within the purview of the World Public Information Campaign on Human Rights, which were described in the relevant note by the Secretary-General (E/CN.4/1991/22).

9. Mr. OGURTSOV (Observer for the Byelorussian Soviet Socialist Republic) agreed with the Chinese delegation which had said that the World Conference on Human Rights, scheduled for 1993, should make it possible to extend still further the international cooperation in that area. That cooperation required the strengthening of friendly relations among States and the complete depoliticization of positions of principle. The international community had to understand that the question of human rights must not be used as a pretext for ideological confrontations or for interference in the internal affairs of States, but that the guarantee of these rights was the common objective of all those who continued to be committed to the purposes and principles of the Charter of the United Nations.

10. An effective way of working towards that end would be to step up public information activities, and the Centre for Human Rights had an important role to play because it was vital to educate people in a spirit of respect for human rights and fundamental freedoms in order that humanism and tolerance might prevail in the world. Increasingly effective international human rights standards and their implementation on a wider geographical scale should ultimately make it possible to establish an international humanitarian order which might form the basis of a universal human rights culture. His delegation thus endorsed all the efforts made along those lines by the Centre for Human Rights as well as its activities and programmes which had been steadily increasing in volume in recent years, as was apparent from the relevant report of the Secretary-General (E/1990/50). It was clear that the lack of human and material resources diminished the effectiveness of the procedures and machinery established to promote human rights and that it had had an adverse effect on the services provided by the Centre and on the accuracy and quality of the reports it produced. For that reason his delegation endorsed the decision taken by the General Assembly to increase the budgetary resources allocated to the Centre to allow it to perform its functions properly.

11. Mr. NABIH HUSSAMI (Observer for the Syrian Arab Republic) said that his country had always participated actively in the work of the Commission on Human Rights, which it considered to be one of the most important bodies of the United Nations. The international community should make every possible effort to promote international peace and security, as well as human rights throughout the world.

12. His delegation welcomed the decision taken by the General Assembly in its resolution 45/155, to convene a World Conference on Human Rights in 1993. It stressed the importance of recognizing that all individual human rights were dependent on factors determined by the internal legislation of every country and that every State had the right, in accordance with the principle of national sovereignty, to enact laws appropriate to its customs, traditions, history and its own particular situation. Moreover, the concept of human rights was not a rigid one but was in constant evolution just like society, and it was important to remember that human rights not only included civil and political rights but also economic, social and cultural rights as well as collective rights such as the right to development and the right to self-determination.

13. His delegation had read with interest the report of the Secretary-General on national institutions for the protection and promotion of human rights (E/CN.4/1991/23) which contained very useful information on national judicial and non-judicial organs concerned with human rights and on the role of non-governmental organizations in this field. The report on regional arrangements for the promotion and protection of human rights in the Asian-Pacific region (E/CN.4/1991/21) also provided interesting information on the action taken in that region by various specialized agencies of the United Nations.

14. His delegation had always cooperated closely with the Centre for Human Rights, which played a fundamental role in the promotion and development of human rights throughout the world, and it therefore seemed vital to strengthen that role and to eliminate all the obstacles which prevented the Centre from functioning in the best possible conditions and assuming its role of coordinator of all activities whose common aim was to promote and protect human rights.

15. His delegation thought that, on the question of the programme and methods of work of the Commission, it would first be necessary to study in greater depth the issues that the Commission was required to consider and the order of priority they should be given in the light of the Commission's objectives.

16. Mr. BARSH (Four Directions Council) recalled that five years had elapsed since the General Assembly had adopted the Declaration on the Right to Development, which constituted the basic expression, within the United Nations, of the relationship between economic and social development and political development. The principles contained in the Declaration had been reaffirmed by the General Assembly at its eighteenth Special Session in May 1990, by the Second United Nations Conference on the Least Developed Countries in September 1990 and in the International Development Strategy for the Fourth United Nations Development Decade. At the regional level, the OAU had endorsed the Arusha Charter on Popular Participation in Development and the OECD Development Aid Committee high-level meeting in November 1990 had recommended that promoting popular participation and democracy should receive high priority in overseas aid programmes in the 1990s. In resolution 45/97, of 14 December 1990, the General Assembly had taken note of the report on the Global Consultation on the Right to Development, expressed the hope that its recommendations would be taken into account in the formulation of further measures in that field, and invited regional economic commissions and regional

intergovernmental bodies to organize consultations with NGOs on the implementation of the Declaration on the Right to Development. The Four Directions Council hoped that the Commission on Human Rights would also act more decisively that year on some of the other recommendations made by the Global Consultation.

17. In the opinion of the Four Directions Council, the principles spelled out in the Declaration on the Right to Development should be the core of the World Conference on Human Rights since one of its objectives was to examine the relation between development and the enjoyment by everyone of economic, social and cultural rights as well as civil and political rights. The World Conference should request Governments and the United Nations to furnish the resources needed to achieve the targets set in respect of human rights at the national level. It should also pay particular attention to the needs of countries engaged in the transition towards democracy and which needed to prove their legitimacy and their credibility, but which were beset with difficulties aggravated by the problems they had inherited from former régimes, including the burden of external debt, and by an unfavourable international financial and trade environment.

18. Some thought should be given to the meaning of the word "democracy". As was stated in the report on the Global Consultation on the Realization of the Right to Development as a Human Right (E/CN.4/1990/9/Rev.1), democracy at all levels was essential to true development (para. 147) and, in order to be fully effective, democracy depended on a fair distribution of economic and political power among all sections of national society (para. 148). People needed to have power to influence decisions which affected them. Certain factors such as the right to own property or the existence of free markets, which formed part of the definitions or conditions of democracy appearing in recent resolutions of the General Assembly, might result in the economic conditions for real democracy if they were adequately regulated to avoid tendencies to consolidate extreme concentrations of wealth, but their mere existence was not enough, as the events in a number of countries proved. The Four Directions Council was certainly not competent to propose a comprehensive definition of democracy, but it would like to draw the Commission's attention to that question and to emphasize the unique contribution which the Commission, and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, through its Special Rapporteur, Mr. Türk, could make to the operational definition and measurement of that concept.

19. The General Assembly had also decided, in resolution 45/164, to proclaim 1993 the International Year for the World's Indigenous People, with the aim of strengthening international cooperation for solving the problems faced by indigenous communities in the field of human rights, the environment, development, health and education, and thus had clearly linked the realization of indigenous rights, including the right to the protection of their land and resources, with the development process. The Commission should emphasize, in its recommendations on the activities to be undertaken in the context of the International Year, the central and indispensable role to be played by the indigenous peoples themselves. The Four Directions Council, whose recommendations appeared in document E/CN.4/1991/NGO/13, considered that those activities should be designed to strengthen the representative organizations and institutions of the indigenous peoples by giving them direct

access to international resources and helping them in their efforts to build mutually supportive international linkages. Accordingly, the functioning of United Nations operational activities should be reviewed, in cooperation with the indigenous people, and their quality improved. The projects that would be drafted and implemented during the International Year would be able to demonstrate the superior effectiveness of a participatory approach to development as well as of the efforts to achieve the realization of human rights concretely, through the development process.

20. Mr. THOMSON (World University Service) recalled that his organization had submitted, in the past, many reports to the Commission, on the violation of human rights of academics, professors, students and researchers in many parts of the world. It had also drawn the attention of the Commission and of the Sub-Commission to the crucial role of education in the realization of human rights in general and economic, social and cultural rights in particular. Article 13 of the International Covenant on Economic, Social and Cultural Rights, dealing with education, was too general in nature and too limited in scope. The right to education needed further elaboration, as did the question of academic freedom. The World University Service had adopted in 1988 the Lima Declaration on Academic Freedom and the Autonomy of Higher Education Institutions, the text of which was now used as a bench-mark.

21. In the preliminary report submitted to the Sub-Commission in August 1989 on the question of the more effective realization of economic, social and cultural rights, Mr. Danilo Türk, the Special Rapporteur, took the view that academic freedom was an area in which there should be further standard-setting activities. The World University Service wholeheartedly supported that position and it would like the Commission to request the Sub-Commission to consider, at its next session, further standard-setting in relation to the right to education.

22. The universal recognition of human rights, and consequently their universal realization, obviously depended on human rights education. During the last two years, a group of individuals from many different places had developed initial plans for a decade of human rights education from 1991 to 2002, an initiative which the World University Service had endorsed along with other non-governmental organizations and human rights organizations. It was intended to be a contribution to the implementation of Commission resolution 1989/53 which called for the development of public information activities in the field of human rights.

23. The World University Service was a founding member of the NGO Coalition against Impunity, a group concerned at the trend of granting pardons and amnesties to military and other violators of human rights. It requested the Commission to consider the phenomenon of impunity and to devise guidelines for States in that field.

24. In its report to the Commission's forty-sixth session, the Working Group on Enforced or Involuntary Disappearances had indicated that one of the main causes of the phenomenon of disappearance might be the factor of impunity. As was known, impunity bred contempt for the law. The Group also indicated, in its report to the forty-seventh session, that in the event of an armed conflict the number of complaints about human rights violations increased immediately and impunity became endemic.

25. In countries where there had been repression, impunity meant that acts of terror and repression perpetrated in the name of the State by military and security forces were not accountable before national courts. International lawyers argued that, while the State could pardon crimes against it, it could not pardon crimes which it had committed against its own citizens. Another key principle of international law was the continuity of the State, which meant that a change in Government did not change the binding nature of the State's international legal obligations.

26. Proponents of amnesty and forgiveness put forward two arguments. First, impunity was a necessary price for the transition to civilian rule. Indeed, military régimes will refuse to step down without guarantees of immunity from prosecution. Second, in fragile new civilian régimes, attempts to try military officers had a destructive and destabilizing effect. Thus, absolution was a way of pacifying the political situation and of trading revenge and retribution for peace and democracy.

27. However, impunity allowed no legal or moral recourse for societies that had suffered from the rule of terror imposed by national security régimes. Society was no longer in a position to condemn military atrocities committed against society itself. Crimes against humanity such as extrajudicial execution, disappearance and torture, as well as war crimes condemned under international law such as massacres, murdering captured prisoners and bombarding civilian populations were absolved by governmental élites, not the victims, in the name of reconciliation and democracy. A culture of fear persisted in those societies since many criminals continued to be at liberty and there was always the fear that terror might recur. If there was no punishment for abhorrent crimes there could be no deterrence to protect human rights and liberties in the future.

28. Impunity also had harmful effects on the moral conscience of the military, who interpreted immunity as tacit approval of their methods and continued to justify their acts by invoking "national security". Thus the army remained a State within the State, beyond the reaches of the law and civilian control.

29. On the national level, there was evidence that impunity did not promote reconciliation or democratization, but rather undermined the rule of law and constitutional structures, weakened civilian authority and perpetuated social divisions.

30. The pragmatic argument adduced in favour of immunity was based on "the end justifies the means". In order to have a stable democracy, it would therefore be necessary to agree to impunity. Yet, the means utilized to construct a system shaped its very nature. Societies aspiring to democracy and justice could not be built on foundations of amorality, unpunished crime and official amnesia.

31. The World Year University Service therefore requested the Commission to initiate a debate on the issue, with a view to banning impunity. It would also like a resolution to be adopted at the current session and was willing to contribute to its formulation.

32. Mr. SENE (Senegal) welcomed the idea of organizing a World Conference on Human Rights at a time when there was an irrepressible desire for freedom and democracy in the air. The growing importance of human rights in international relations justified the holding of such a Conference, which would further enhance universal awareness of the values embodied in human rights for the freedom, dignity and peace of everyone. The Conference should be planned as a forum for dialogue, where participants would be able to exchange information about the experience acquired by them in implementing the international human rights instruments. It would also offer an opportunity to take stock of achievements in the defence and protection of human rights and to look together at the challenges to be taken up and the obstacles to be overcome in respect of civil and political rights as well as economic, social and cultural rights.

33. It was impossible to be indifferent to the many forms of human rights violations reported every day by the press, radio and television wherever there was freedom of information.

34. The Conference would provide an opportunity of evaluating the effectiveness of machinery and procedures, of enriching and improving programmes of activities, of guaranteeing the primacy of the law and of encouraging a better use of the standards and provisions of the international human rights instruments. It would be possible to explore the issue of the linkages between development, the environment, peace and humanitarian law, with a view to creating conditions which would enable each person to enjoy fundamental rights and freedoms to the full.

35. The Conference should also mobilize financial resources needed to render the material resources of the human rights monitoring bodies and advisory services more effective, so as to intensify the dissemination, extension, education, research and promotion work in favour of the fundamental rights of the human person.

36. His delegation continued to be available for any consultation as to the arrangements for representation, organization of work, participation of all the competent authorities and the finalities of the Conference in order to make it a milestone in the history of human rights in the world.

37. Ms. ALEXIU (Latin American Federation of Associations of Relatives of Disappeared Detainees) recalled that activities to encourage respect for human rights were an ongoing concern of the Commission and other United Nations bodies. In accordance with General Assembly resolution 44/64 the Secretary-General had prepared a report containing conceptual models of national institutions for the protection and promotion of human rights.

38. The information submitted by many Governments was of significance and clearly showed that efforts had been made to set up national institutions in that field. FEDEFAM supported those initiatives in the various Latin American countries, but regretted the gap still existing between theory and practice.

39. In Guatemala, for example, where the Constitution specified that the State should protect the individual and the family and should guarantee to all life, liberty, justice, security, peace and the full development of the

person, the actual situation was quite different since enforced and involuntary disappearances, murders, summary executions and torture continued to occur.

40. In Honduras, an inter-agency human rights committee had been created by a decree of the Executive Power and was presided over by the Attorney General of the Republic who was answerable to the Legislative Power. The committee which so far had not settled a single case confined itself to sending representatives to national and international conferences to defend the Government and to report on cases alleged to have been resolved.

41. Colombia had the Office of the Attorney General of the Nation, the Attorney for Human Rights and Presidential Advisers for Human Rights. Those institutions merely received complaints without undertaking genuine inquiries.

42. In Peru, the Prosecutor's Department had done good work in receiving complaints and informing international organizations, but its activities were limited at the level of inquiries by those of the political and military command which prevented access to barracks where people were being detained. Further military personnel did not appear in court when they were summoned to do so. In December 1990, a decree had been approved whereby any offences committed in the regions under a state of emergency were regarded as "offences committed in the course of duty" and therefore coming within the competence of military courts. Under that decree, civil courts might not initiate any investigation against perpetrators of human rights violations who often hid behind fictitious names in the regions where there was a state of emergency.

43. FEDEFAM therefore considered that, as far as human rights were concerned, neither independence nor the impartiality of the judiciary were respected in Peru. Further, the facts showed that methods such as habeas corpus proceedings were not working properly.

44. In Argentina, the President of the Republic had at his disposal the right of pardon, to be used only in the national interest. Yet, President Menem had pardoned senior military personnel responsible for enforced disappearances, arbitrary executions, torture, as well as economic offences; that was contrary to international law which considered certain of those crimes to be crimes against humanity and, therefore, ineligible for impunity.

45. As to the criteria and methods available to the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, FEDEFAM considered that information was important and that all Governments and all non-governmental organizations should endeavour to disseminate and use not only the bulletins of the Centre for Human Rights but also all the work of the Commission and Sub-Commission, whose reports and resolutions reached only small groups without coming to the knowledge of the majority of the population or those mainly concerned. She should also like members of non-governmental organizations to have greater access to the courses and fellowships offered by the United Nations. She also supported an increase in the budget of the Centre for Human Rights in view of its new responsibilities.

46. Mr. ZUNIGA REY (International Association of Educators for World Peace) recalled that, at its previous session, the Commission had adopted resolution 1990/72, entitled "Development of public information activities in the field of human rights, including the World Public Information Campaign for Human Rights". His organization considered that such public information activities should form part of the educational pattern in all countries, and it welcomed the trend in that direction. Indeed in those countries where information became available, there was also freedom. Many Governments were including on their political agenda projects relating to the promotion of freedoms and to respect for human rights.

47. Cuba, unfortunately, still showed no sign of liberalization in that field. The International Association of Educators for World Peace considered the national institutions for the promotion and protection of human rights to be particularly necessary in Cuba since they offered citizens the only opportunity of claiming and protecting their fundamental rights. In its report on Cuba dated December 1990, Amnesty International stated that at least 70 people belonging to human rights associations were in prison. Many human rights activitists had been subjected to reprisals after testifying before the United Nations Working Group which had visited Cuba.

48. How would those human rights advocates react at the prospect of the 1993 World Conference when they saw that preparations were under way for establishing new rights and that Governments were talking of entering into new commitments when they themselves had never been able to enjoy the most elementary rights?

49. Individual rights? Collective rights? Rights both collective and individual? Dictatorships sought to interpret the principles of human rights rather than to apply them. The International Association of Educators for World Peace thought that words should give way to deeds and that efforts should be made to ensure that any violation of human rights, wherever it occurred, including Cuba, should be condemned forthwith.

50. Ms. CURBELO (Service Justice and Peace) said that she would like, before beginning her statement on agenda item 11, to give her reaction to the statements made by many earlier speakers. Governments announced the successes they had won, non-governmental organizations indicated in the main existing shortcomings and the United Nations strove to promote meetings and declarations. While the present century had been characterized by an ever growing awareness of human rights, it had also been a century of world wars waged with weapons but also with hunger, which also caused many fatalities. Since the Second World War and the present war, the conflicts described as low intensity and the "dirty war", which was a misnomer had taken a toll of more than 23 million human lives. It was therefore obvious that the United Nations and all those who worked with it must find ways and means of giving effect to the declarations to ensure that equality before the law was a guarantee and a demand that applied to all individuals, all institutions and all States.

51. At earlier sessions, the Commission's attention had already been drawn by various non-governmental organizations to the serious consequences of impunity which left certain peoples without legal recourse to the massive and systematic violation of their rights, not only throughout the Latin American

continent but also in other parts of the world (see inter alia documents E/CN.4/1988/NGO/5[illegible], E/CN.4/1989/NGO/1966 and E/CN.4/1990/NGO/31). For that reason it had been decided to convene the Permanent Peoples' Tribunal in order to consider the impunity enjoyed by crimes against humanity in Latin America. Proceedings had been instituted at the national level against impunity in various countries, including Colombia, Uruguay, Argentina, Paraguay, Brazil, Peru, Bolivia (proceedings suspended following intervention by the Government), Guatemala, Honduras, Ecuador and Panama. The initiative would be followed, in April 1991 by a trial and a verdict to be delivered for the entire continent.

52. Impunity was characterized by a positive legal order which proclaimed respect for human rights but which, in daily life, constituted the legal context permitting the systematic infringement of those rights. That aspect of impunity stood out clearly in the case of Brazil where, according to the Permanent Peoples' Tribunal, the violence currently besetting society had tragic consequences: in 1988 and 1989, 46 indigenous persons had been murdered and 69 had been subjected to police violence; in the State of Sao Paulo, 3,226 people had been murdered and 5,141 injured as a result of acts of violence directed against disadvantaged persons, and the Ministry of Health of Rio de Janeiro compiled a register of 3,298 children and teenagers who had died a violent death between 1984 and 1989. In their verdict, the judges of the Permanent Peoples' Tribunal had found a link between that violence and the conspicuous deterioration in living conditions during the last 20 years, which had occurred as an effect of the perverted and selective machinery of modernization which, after having been imposed by force by the military dictatorship, had survived it and formed part of the restored democratic régime.

53. With regard to impunity for crimes against humanity in Colombia, borne out by figures checked and submitted by complainant organizations (13,383 violent deaths in less than two years, 309 disappearances for political reasons or presumed political reasons, 349 abductions, 1,704 cases of detention for political reasons or presumed political reasons, death threats, attacks, etc.), the Permanent Peoples' Tribunal had found that in Colombia human rights violations had been committed for several decades, and with increasing intensity at the end of the 1980s and that, for the most part, they had gone unpunished.

54. In Argentina, where impunity had recently been legalized with the granting of a presidential pardon to persons who had been sentenced for their responsibility in the crimes of enforced disappearance, torture, illegal detention and murder of thousands of persons, the investigation proceedings had also highlighted the link between the absence of sanctions for those crimes and the strengthening of the methods utilized by the forces of law and order which, in the Greater Buenos Aires and Córdoba regions alone had caused the death of more than one thousand people in police operations since the end of the dictatorship.

55. The Tribunal had also studied the case of Peru, which at present had the highest rate of enforced disappearances in the world and where, generally speaking, there had been a sharp upsurge in human rights violations under a civilian Government; the members of the jury had made an appeal to the new

Government to reactivate the democratic structures of the State which had been weakened by the escalating social conflict and the lack of confidence in the establishment, the latter phenomena being due to the pervasive climate of impunity and the overall deterioration of living conditions.

56. In its report (E/CN.4/1991/20), the Working Group on Enforced or Involuntary Disappearances broached the question of impunity in paragraphs 20, 21 and 22 and formulated conclusions in paragraphs 406 to 411 which her organization found to be suitable.

57. In its conclusions on the situations of impunity in Guatemala and Honduras, the Permanent Peoples' Tribunal had described those cases as tragically representative of the conflict which divided North and South and of the violence which was a feature of that conflict. It was a matter of particular urgency that the international community should be made aware of those hard facts at a time when the world of the rich was preparing to celebrate the five hundredth anniversary of the discovery of America, in other words, the introduction of relationships of domination and death in that hemisphere.

58. The governmental organizations, aware of the amount of work accomplished in order to establish standards and procedures aimed at bringing an end to situations that threatened human rights, considered it necessary for the United Nations, acting through the Commission, to begin to tackle the problem of impunity and were considering placing it on the agenda for the 1993 World Conference. The non-governmental organizations requested that an in-depth study should be undertaken on the causes and consequences of impunity, that measures should be adopted to prevent impunity from continuing to undermine not only the international standards in force but also the right to life and development of peoples and that Governments should be urged to respect the treaties, conventions and protocols to which they had subscribed.

59. The CHAIRMAN said that since the list of speakers under agenda item 11 was exhausted, he would give the floor to the representative of Iraq who had asked to exercise his right of reply.

60. Mr. AL-KADHI (Iraq) referred to the statement made by the delegation of the United States of America under agenda item 11, setting out that country's position on fundamental human rights principles and its views on the future World Conference on Human Rights, in the course of which it had indicated its readiness to listen to any criticism formulated concerning his country's policy on that issue. The Iraqi delegation recalled that it had already proved that the United States and the group of Western countries talked about human rights in theory while they continued to violate the principles of human rights and the rights of the peoples of the third world. How was one to describe the infamous crime recently committed against civilians in a Baghdad shelter using laser bombs against hundreds of children, women and old people? That crime was further striking proof of the fallacious arguments submitted to the Commission by the delegation of the United States and by those of the Western countries. The attack against the Baghdad shelter was truly a crime against humanity, a violation of all the fundamental principles of international humanitarian law and also a way of avoiding a military confrontation by hitting civilian targets.

61. His delegation asked the Commission whether it intended to remain silent in the face of that odious and barbaric act. History would assign responsibility for that infamy to the United States, as it already had done in the case of other peoples in Viet Nam, Japan, Panama, Grenada and elsewhere. The people of Iraq considered all who had allowed and perpetrated those crimes to be responsible to mankind and to posterity.

62. The CHAIRMAN said that the Commission had completed its consideration of agenda item 11.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES (agemda item 10) (E/CN.4/1991/15, 16, 19, 20 and Add.1, E/CN.4/1991/49 and 66; E/CN.4/1991/NGO/4, 17, 19, 20, 21, 22 and 24; A/45/590 and 633; A/RES.45/142 and 143; E/CN.4/Sub.2/1990/11, 27, 28, 29 and Add.1, E/CN.4/Sub.2/1990/32, 33 and Add. 1 and 2, E/CN.4/Sub.2/1990/34, E/CN.4/Sub.2/1989/30/Rev.2)

63. Mr. MARTENSON (Under-Secretary-General for Human Rights) introduced agenda item 10, beginning with sub-item (a) on torture and other cruel, inhuman or degrading treatment or punishment. The topic had been considered by the Commission since 1984, and in 1985 the Commission had decided by resolution 1985/33 to appoint a special rapporteur. The Chairman of the Commission had appointed Mr. Peter Kooijmans, assigning to him a mandate which had been renewed annually until 1988 and thereafter for two year periods. The report submitted by the Special Rapporteur to the current session of the Commission was published as document E/CN.4/1991/17 and would be introduced by Mr. Kooijmans.

64. The United Nations Voluntary Fund for Victims of Torture had been established to enable the United Nations to assist individuals who had been tortured, either recently or not, and were suffering after-effects as a result of the treatment inflicted upon them and needed psychological, medical, social, financial and legal assistance. By resolution 1990/29, the Commission on Human Rights had requested the Secretary-General to keep it informed of the operations of the Fund on an annual basis. Further, in resolution 45/143, the General Assembly had called for new contributions to be paid to the Fund, preferably in a regular manner, in order to provide continuous support for the projects begun thanks to the Fund. The Commission therefore had before it the report of the Secretary-General on the activities of the Fund and of its Board of Trustees, which had been submitted to the General Assembly at its forty-fifth session (A/45/633) as well as a note by the Secretary-General (E/CN.4/1991/16) listing new contributions and pledges announced by States following the publication of the first report. Since the publication of the note, the Greek Government had pledged the amount of $5,000 for 1991 and the Government of the United States of America had pledged $100,000, also for 1991.

65. Turning to sub-item (b) concerning the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, he recalled that the Commission had before it a report by the Secretary-General (E/CN.4/1991/15) which summed up the situation by giving a list of States which had signed, ratified or acceded to the Convention. The report also drew attention to the activities of the Committee against Torture, which had held two sessions in 1990, in the course of which it had considered the initial reports submitted by 11 States parties in accordance with article 19 of the Convention and had also studied various organizational questions concerning, inter alia, the Committee's cooperation and coordination with other bodies and institutions dealing with torture within the purview of the United Nations or outside it. The Committee had also decided to appoint, for each of the reports it was required to consider, a rapporteur who would be responsible for drawing up a list of issues to be put to the representatives of the State party and for drafting conclusions, recommendations and general comments basing himself on the Committee's consideration of the report.

66. The sixth and seventh sessions of the Committee would be held in Geneva from 22 April to 3 May 1991 and from 11 to 22 November 1991, respectively. The General Assembly, in resolution 45/142, had raised issues relating to the funding of the Committee (see document E/CN.4/1991/15, para. 8). The Commission would recall that, at its forty-fifth session it had decided to consider at the current session a draft optional protocol relating to the Convention submitted by the Government of Costa Rica the text of which, together with an introductory memorandum, were contained in document E/CN.4/1991/66.

67. Turning to the question of enforced or involuntary disappearances (sub-item (c)), he recalled that the Working Group on Enforced or Involuntary Disappearances had before it several thousand cases of missing persons. The steps and initiatives taken by the Working Group were described in its report (E/CN.4/1991/20), which also contained an analysis of the problem of disappearances worldwide and a brief summary of the situation in 46 countries, together with statistics. The Working Group itself estimated that the scope of the problem might exceed the idea formed about it on the basis of the 20,000 unclarified cases still in the Group's files.

68. The Working Group's mandate had been extended for two years at the Commission's forty-sixth session. In 1990, the Group had accepted an invitation to visit the Philippines and the visit was described in an addendum to the report (E/CN.4/1991/20/Add.1). The Governments of El Salvador and Sri Lanka had also extended invitations to the Working Group, and it was considering visiting at least one of those countries in the course of 1991. The Group was concerned to see that the recommendations it had made following visits made earlier to various countries had not been followed up. It had therefore reminded the Governments concerned of the comments and recommendations it had made and had requested them to inform it of the meassures that had been taken to implement them or of the obstacles that stood in the way of the adoption of those measures.

69. Moreover, pursuant to Commission resolution 1990/76, the Working Group had transmitted to the Governments concerned the allegations relating to measures or acts of intimidation, persecution or reprisals directed against

private individuals or groups, and it had also considered the information received pursuant to resolution 1990/75 entitled "Consequences of acts of violence committed by irregular armed groups and drug traffickers for the enjoyment of human rights". All those questions were taken up in the report which would be introduced by the Chairman of the Working Group, Mr. Ivan Tosevski.

70. The question of human rights and states of emergency, considered under the same item, was the subject of the third report, revised and updated, which had been prepared by the Sub-Commission's Special Rapporteur, Mr. Leandro Despouy (E/CN.4/Sub.2/1989/30/Rev.2). The report contained a list of States which, since 1 January 1985, had proclaimed, extended or terminated a state of emergency. The Commission also had before it draft decision I, contained in Chapter I, Section B of the report of the Sub-Commission (E/CN.4/1991/2-E/CN.4/Sub.2/1990/50).

71. He then referred to the question of staff members of the United Nations and specialized agencies in detention, with which the Commission and the Sub-Commission had been concerned for several years. In view of the serious situation, in 1988 the Sub-Commission had decided to instruct one of its members, Mrs. Bautista, to carry out a study on the subject. In resolution 1990/31, the Commission had requested the Secretary-General to continue his efforts to ensure that the human rights and privileges and immunities of United Nations staff members and experts and their families were fully respected. The Sub-Commission had also decided that the annual celebration of Human Rights Day should be devoted to that theme in 1990 and a Round Table had been organized at the Palais des Nations, under the auspices of the Centre for Human Rights on 10 December 1990, attended by eminent professors of international law, international civil servants and other persons seeking to alert international opinion to the problem.

72. He was very disturbed at the frequency of cases of arrest, imprisonment and even execution of United Nations staff members, at a time when the Organization was more than ever called upon to play an essential and absolutely crucial role for the maintenance of peace and the defence of the dignity of the human person throughout the world. It was absolutely essential that staff members should be able to carry out their duties without any infringement of their rights and indeed any violation of the rights of those staff members was at the same time an attack on the Organization. The question greatly concerned the Secretary-General, who urged Members States to offer staff members the protection they needed and the treatment to which they were entitled as international officials.

73. The General Assembly had also adopted a resolution in which it called upon those Member States holding under arrest or detention officials of the United Nations and the specialized agencies and related organizations to enable the Secretary-General or the executive head of the organization concerned to exercise fully the right of functional protection inherent in the relevant multilateral conventions and bilateral agreements, particularly with respect to immediate access to detained staff members. In addition, the General Assembly had called on all Member States to take the necessary measures to promote knowledge of and compliance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Commission would have before it under that agenda item a report by the Secretary-General in document E/CN.4/1991/18.

74. As regards the right to freedom of opinion and expression, it should be recalled that the issue had been under consideration by the Commission since 1988. In 1989, the Sub-Commission had entrusted Mr. Joinet and Mr. Türk with the preparation of a study on the right to freedom of opinion and expression, the current problems of its realization and the measures necessary for its strengthening and promotion. In 1990, the Commission, by its resolution 1990/32, had endorsed the Sub-Commission's resolution. The Economic and Social Council, in its resolution 1990/35, had then approved Commission resolution 1990/32.

75. At its forty-second session, the Sub-Commission had had before it the preliminary report on the right to freedom of opinion and expression prepared by Mr. Joinet and Mr. Türk (E/CN.4/Sub.2/1990/11) and had decided to give priority consideration to the updated report at its forty-third session.

76. At its current session, therefore, the Commission had before it that preliminary report (E/CN.4/Sub.2/1990/11).

77. As to the question of the independence and impartiality of the judiciary, jurors, assessors and the independence of lawyers, it should be recalled that at its forty-sixth session the Commission had adopted resolution 1990/33, in which it had endorsed the arrangements by which the Sub-Commission had invited Mr. Luis Joinet to prepare a working paper on means in the area of monitoring by which the Sub-Commission could assist in ensuring respect for the independence of the judiciary and the protection of practising lawyers. The Commission had also decided to consider the question at its forty-seventh session.

78. At its forty-second session, the Sub-Commission had before it the working paper prepared by Mr. Joinet. It had adopted resolution 1990/23, by which it had requested him to prepare a report on the independence and impartiality of the judiciary.

79. Finally, at its forty-fifth session, the General Assembly had adopted resolution 45/166, in which it had welcomed the decision of the Sub-Commission to entrust Mr. Joinet with the preparation of a report. Consequently, at its present session, the Commission had before it the working paper prepared by Mr. Joinet (E/CN.4/Sub.2/1990/35) and draft resolution VI contained in Chapter I, Section A of the report of the Sub-Commission.

80. With regard to the draft declaration on enforced or involuntary disappearances, the Sub-Commission had, by resolution 1990/33, adopted a text which it had transmitted to the Commission with the recommendation that it should be endorsed and transmitted to the Economic and Social Council and the General Assembly for final adoption.

81. He drew the attention of the Commission to the fact that the General Assembly, at its previous session, had welcomed in resolution 45/166, the adoption by the Sub-Commission of the draft declaration and had invited the Commission to consider the draft declaration as a matter of high priority at its forty-seventh session.

82. The Commission therefore had before it the draft declaration, annexed to document E/CN.4/Sub.2/1990/32, and draft decision 3 contained in Chapter I, Section B, of the report of the Sub-Commission.

83. In a number of resolutions adopted in previous years, the Commission had affirmed that the taking of hostages constituted a serious violation of human rights and had strongly recommended that practice. In resolution 1990/36, the Commission had decided to remain seized of the question at its forty-seventh session.

84. With regard to the question of human rights and the administration of justice, it should be recalled that, by its resolution 1990/81, the Commission had decided to continue the consideration of that question at its forty-seventh session. Pursuant to General Assembly resolution 44/162, it had invited the Sub-Commission to study the implementation of United Nations norms and standards in the administration of justice and to recommend practical measures to the Commission. It had also invited the Sub-Commission to consider the elaboration of model texts for national legislation in that field. No action had been taken in that regard by the Sub-Commission at its forty-second session.

85. In resolution 1990/81, the Commission had invited the Secretary-General to establish a consolidated list of provisions appearing in the various United Nations standards relating to human rights in the administration of justice; such a list could simplify the drafting of model texts for national legislation. The Commission had also invited the Secretary-General to inform it, at its forty-seventh session, of the decisions taken by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders relevant to human rights in the field of the administration of justice. The Commission had before it a note by the Secretary-General prepared in accordance with that request (E/CN.4/1991/19).

86. In resolution 45/166, the General Assembly had again requested the Commission to invite the Sub-Commission to study the implementation of United Nations norms and standards in that field, to identify problems that might impinge on the effective implementation of those standards and norms and to recommend viable solutions with action-oriented proposals to the Commission. The General Assembly had also requested the Secretary-General to prepare a draft model text for national legislation in the field of human rights in the administration of justice, and had requested the Commission to invite the Sub-Commission to consider that text with a view to the elaboration of other texts to be proposed to the Commission for adoption. Finally, the Secretary-General had been requested to continue to assist Member States, at their request, in implementing existing international human rights standards in the administration of justice.

87. As far as the question of the right to a fair trial was concerned, it should be noted that, at its forty-second session, the Sub-Commission had had before it the brief report prepared by Mr. Chernichenko and Mr. Treat. In resolution 1990/18, the Sub-Commission had decided to entrust the two rapporteurs with the preparation of a study entitled "The right to a fair trial: current recognition and measures necessary for its strengthening". The Sub-Commission had recommended that the Economic and Social Council, through the Commission on Human Rights, should endorse that decision.

88. At its current session, the Commission had before it the above-mentioned brief report by Mr. Chernichenko and Mr. Treat (E/CN.4/Sub.2/1990/34), as well as draft resolution V contained in Chapter I, Section A, of the report of the Sub-Commission.

89. Concerning the question of the human rights of persons subjected to any form of detention or imprisonment, he recalled that the Sub-Commission had considered, at its previous session, the revised report submitted by Mr. Joinet and had adopted resolution 1990/22, by which it had invited the Commission to consider the different proposals made by the Special Rapporteur. At its current session, therefore, the Commission had before it the recommendation made by the Special Rapporteur (E/CN.4/Sub.2/1990/29/Add.1).

90. In connection with agenda item 10, the Commission might wish to take note of the following resolutions, adopted by the Sub-Commission at its forty-second session: resolution 1990/6, entitled "Compensation for victims of gross violations of human rights" and resolution 1990/21 entitled "Application of international standards concerning the human rights of detained juveniles".

91. The CHAIRMAN invited Mr. Kooijmans, Special Rapporteur on questions relevant to torture, to introduce his report, contained in document E/CN.4/1991/17.

92. Mr. KOOIJMANS (Special Rapporteur on questions relevant to torture) noted that the report appearing in document E/CN.4/1991/17, which was his sixth report as Special Rapporteur, was more voluminous than that of the previous year. That was not only due to the fact that more allegations had been transmitted to Governments, although the number of requests for urgent appeals was steadily increasing. Since the report had been finalized, nine additional appeals had been sent to various Governments, bringing the total number of appeals sent to 79.

93. The fact that the number of communications transmitted to Governments was increasing did not in itself mean that the number of acts of torture had also increased. Apart from the fact that his mandate had now become widely known, the increase was also due to the fact that communications had become more detailed and specific, so that they lent themselves better for transmittal to Governments. The percentage of communications received and brought to the attention of Governments was rising every year.

94. The size of the report was also due to another fact: the number of replies received from Governments had also increased percentage-wise. And although the quality of the information provided to him could not always be deemed satisfactory, there seemed to be a trend towards forwarding more detailed information. Since he was aware of the fact that allegations concerning torture could be made for political reasons in order to smear a Government, he wished to stress that he never transmitted communications to Governments on the basis of the facts mentioned therein alone. Such information must always be corroborated by other information of a more general nature on the human rights situation in that country. He wished to take the opportunity to recall that if a Government felt that it was being slandered, it could invite him to carry out an investigation in loco.

95. The fact that the number of government replies was increasing must in itself be welcomed. Those Governments took seriously their obligation under Article 56 of the Charter of the United Nations "to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55" to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".

96. He wished to inform the members of the Commission that since he had finalized his report, he had received answers from the Governments of the following countries: Bangladesh, Colombia, Egypt, Equatorial Guinea, the Islamic Republic of Iran, Mexico, Morocco, Myanmar, the Philippines, Spain and Turkey. All those replies referred to communications - both urgent appeals and letters - addressed to Governments during 1990. In addition, the Governments of Bulgaria, Italy and the Philippines had sent replies to communications transmitted to them in 1989. Finally, the Government of Kuwait had provided him with a report entitled "Torture in occupied Kuwait", but since that document had been submitted only recently, it had not been possible to take into consideration in the report submitted to the Commission.

97. He wished to express his appreciation to the Government of the Philippines which had invited him to visit that country. His visit, during the first part of October 1990, had been highly informative. The Government of the Philippines deserved special praise, since it had invited that same year two of the monitoring mechanisms of the Commission; as well as himself, the Working Group on Enforced or Involuntary Disappearances had also visited the country. He was gratified to inform the members of the Commission that, by letter of 1 February 1991, the Government of Indonesia had invited him to visit the country. He believed that such visits could contribute to the establishment of a system of measures and mechanisms which could effectively prevent and eradicate torture.

98. Although the practice of torture had not increased, it was far from having disappeared, despite the sustained campaign against torture conducted by the international community for more than 15 years. No other human rights violation had received so much attention, many instruments and mechanisms for prevention and control had been set up, and it had therefore been possible to hope that the campaign against torture would be successful. However, it had to be admitted, in the light of human rights reports, that the campaign had not yielded the results anticipated.

99. Nevertheless, one should not be discouraged or think that all the efforts made had been useless. As was stated in paragraph 284 of the report, what had been accomplished had not been a waste of time and energy, but had provided the indispensable infrastructure for a continued campaign. The Commission might consider the draft optional protocol to the 1984 Convention against Torture, which made provision for a system of periodic visits to places of detention. Such a system of visits was one of the most effective instruments for the prevention of torture. In his view, it would be advisable for the Commission at the current session to take up that issue, since its consideration had already been deferred several times. Useful experience had been gained by European bodies which had adopted such a system a few years ago.

The first report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment was due to be published shortly, and would enable the Commission to become more familiar with the scope of that important mechanism.

100. He appreciated the cooperation established between himself and the Committee against Torture, established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He believed that certain ambiguities about their respective attributions had been clarified and that overlapping could be largely avoided.

101. The infrastructure for a sustained campaign against torture existed. What was needed now was the political will to ensure that the campaign succeeded. He asked Commission to refer to that aspect in Chapter IV of his report.

102. He concluded by recalling that, as he had stated in paragraph 287 of his report, torture was the plague of the second half of the twentieth century and that precious little time was left for preventing the plague from entering into the twenty-first century.

103. The CHAIRMAN invited Mr. Tosevski, Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, to introduce his report, contained in document E/CN.4/1991/20 and Add.1.

104. Mr. TOSEVSKI, Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, thought there was no need for an elaborate introduction to the Working Group's annual report, but he would simply like to make a few remarks. First of all, he recalled that, at its forty-sixth session, the Commission had adopted resolution 1990/76 entitled "Cooperation with representatives of United Nations human rights bodies". That resolution focused on various issues, notably, access for private individuals to the United Nations human rights procedures and the question of reprisals against individuals who had availed themselves of those procedures. The Working Group had in effect encountered difficulties on both scores. It had been informed of various instances in which witnesses or relatives of missing persons had been harassed.

105. In order to comply with resolution 1990/76, the Working Group had indicated under the relevant country section in the report the nature of the information received. Furthermore, it had started to develop a prompt intervention mechanism whereby it hoped to be able to prevent reprisals against people who had turned to the Group for help. The report gave more information on that subject.

106. One of the new features of the report was the graph in Annex I; it showed the evolution in disappearances worldwide since 1973. One saw the satisfaction that as of 1983, the overall number of cases of disappearance appeared to have been declining. For the reasons explained in the conclusions to the report, the graph should, however, be interpreted very carefully. Moreover, there was no reason whatever for the Commission to slacken its efforts.

107. The predominant theme in the Working Group's conclusions was the question of impunity. Impunity was perhaps the single most important factor contributing to disappearances. The question of impunity seemed to the Working Group a legitimate matter of concern for the Commission for, in general, human rights violations appeared to be accelerated and aggravated by the fact that, most of the time, people who committed those violations were unpunished. He hoped that the Commission, or the Sub-Commission, would find an occasion to study that question in depth.

108. Finally, he directed the attention of the members of the Commission to the addendum to the report of the Working Group. It concerned the visit by two members of the Group to the Philippines in the summer of 1990, at the invitation of the Government of that country. A truly unique situation had arisen; for the first time in the Commission's history there were two reports, from two different sources, on the same country under the same agenda item in the same session of the Commission. It was to be hoped that the situation in question would closely monitor the follow-up to be given to the reports of that kind. In the past, the Commission's practice had not been very satisfactory; some mission reports had received only a passing reference during the session and had been forgotten soon afterwards including, it seemed, by the States concerned. However, the excellent working relations which the Group enjoyed with the Government of the Philippines left no doubt that the Group would be kept informed about future developments in human rights and disappearances in particular in that country.

109. Mr. BLACKWELL (United States of America), speaking in exercise of the right of reply, said that his Government deeply regretted losses sustained among the civilian population in wartime, in any country whatsoever. A war was also tragic. However, it was not for the Commission on Human Rights to discuss the question of the war; that was the responsibility of the Security Council which, it should be recalled, had adopted 12 resolutions calling upon Iraq to comply with international law.

110. The Commission on Human Rights was a forum for the discussion of flagrant human rights violations. Its members were fully aware that Iraq had brutally attacked Kuwait, that it was using civilians as human shields on military sites and that it was bombarding civilian areas in a country that was not at war. They were also aware that tens of thousands of Kuwaitis had been tortured and killed by Iraq since 2 August.

111. Iraq had begun the war on 2 August; it was up to Iraq to bring that war to an end and thus protect innocent lives by complying with the principles and conditions laid down by the Security Council.

The meeting rose at 12.50 p.m.